THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL ACT, 1947 (BOM. LVII OF 1947).

G. N., H. & L. G. D., No. 5975/33, dated 12th May 1948 (B. G., Pt. I, p. 2184-A). S. 15

Amended by G. N., H. & L. G. D., No. 5975/33, dated 24th September 1948.
Amended by G. N., H. & L. G. D., No. 5975/33, dated 6th April 1949.

In exercise of the powers conferred by section 15 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947), as amended by the Bombay Rents, Hotel and Lodging House Rates Control (Amendment) Act, 1948 (Bom. XXXVI of 1948), the Government of Bombay is pleased to permit in all areas to which Part II of the said Act extends, all transfers and assignments by lessees of their interests in leasehold premises as and to the extent specified in the Schedule hereto.

Schedule.

(1) Transfer or assignment on (*i*) gift, (*ii*) sale or (*iii*) mortgage without possession by lessees holding building sites under leases the unexpired period of which exceeds 5 years on the date of this Notification provided such transfer is of their entire interest in the building site together with the whole building standing thereon.

(2) Transfer or assignment incidental to the sale of a business as a going concern together with the stock-in-trade and the good-will thereof, provided that the transfer or assignment is of the entire interest of the transferor or assignor in such lease-hold premises together with the business and the stock-in-trade and good-will thereof.

(3) Reconveyance of mortgaged property where such property comprises of a building site held under a lease together with the whole building standing thereon.

(4) Transfer or assignment of trust-property without consideration from one trustee to another trustee or from a trustee to a beneficiary where such property comprises of a building site held under a lease together with the whole building standing thereon.

G. N., H. & L. G. D., No. 5941/33, dated 17th May 1948 (B. G., Pt. IV-B, p. 266). S. 49 Bombay Rents, Hotel and Lodging House Rates Control Rules, 1948.

In exercise of the powers conferred by section 49 of the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 (Bom. LVII of 1947), the Government of Bombay is pleased to make the following rules, namely:—

THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL RULES, 1948.

CHAPTER I.

Preliminary.

1. *Title.*—These rules may be called the Bombay Rents, Hotel and Lodging House Rates Control Rules, 1948.

2. *Definitions.*—In these rules, unless there is anything repugnant in the subject context,

(*a*) " Code " means the Code of Civil Procedure, 1908 ;

(*b*) " miscellaneous application " means an application for fixing the standard rent, except where the said relief is claimed in a pending suit or proceeding, an application for determining the permitted increases, an application by a tenant for reinstatement, an application for a direction for the restoration of any essential supply or service or an application by a member of the tenant's family under sub-clause (*c*) of clause (*11*) of section 5 ;

(c) words and expressions not defined in these rules shall have the same meanings as are assigned to them in the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947.

CHAPTER II.

Receipt for rent.

3. *Receipt for rent.*—A receipt given under section 26 for the amount of rent received in respect of any premises shall be in Form I.

CHAPTER III.

Payment of rent according to British calendar.

4. *Calculation of rent according to British calendar.*—If, before the Act comes into force, the rent in respect of any premises was chargeable according to a calendar other than the British calendar, the landlord shall recover from the tenant rent for the broken period of the month, year or portion of the year immediately preceding the date on which the Act comes into force, proportionate amount according to the aforesaid calendar month, year or portion of the year at which the rent was then chargeable. After such date the landlord shall recover rent according to the British calendar. The rent chargeable per month according to the British calendar shall not exceed the rent which was chargeable per month according to the other calendar followed immediately before such date.

CHAPTER IV.

Procedure for suits, proceedings, appeals, etc., in Greater Bombay.

5. *Procedure for suits the value of the subject-matter of which does not exceed Rs. 2,000 and for proceedings for execution of decrees and orders passed therein and for distress warrants.*—In such of the following suits and proceedings as are cognizable by the Court of Small Causes, Bombay, on the date of the coming into force of these Rules, namely :—

(1) suits relating to the recovery of rents or charges for boarding, lodging or other service provided in a hotel or a lodging house when the amount or value of the subject-matter does not exceed Rs. 2,000,

(2) proceedings under Chapters VII and VIII of the Presidency Small Cause Courts Act, 1882, and

(3) proceedings for execution of any decree or order passed in any such suit or proceeding,

the Court of Small Causes, Bombay, shall follow the practice and procedure provided for the time being (*a*) in the said Act, except Chapter VI thereof, and (*b*) in the rules made under section 9 of the said Act.

6. *Affidavits in distress warrant applications.*—Every application for a distress warrant under Chapter VIII of the Presidency Small Cause Courts Act, 1882, shall be accompanied also by an affidavit of the applicant or his duly constituted agent stating that the amount claimed is not in excess of the rent recoverable under the Act.

7. *Procedure in applications for fixing standard rent, etc.*—In miscellaneous applications the Court of Small Causes, Bombay, shall follow, as far as may be and with the necesary modification, practice and procedure applicable to suits referred to in rule 5 as if such applications were suits for sums not exceeding Rs. 1,000 :

Provided that costs in respect of employing a legal practitioner when allowed in any such application shall be not more than Rs. 15.

8. *Procedure for other suits.*—In suits and proceedings other than those referred to in rules 5 and 7, the Court of Small Causes, Bombay, shall, as far as may be and with the necessary modifications, follow the procedure prescribed for a court of first instance by the Code :

Provided that costs in respect of employing a legal practitioner when allowed shall be, in respect of any legal practitioner entitled to appear, not more than Rs. 45 *per diem* of 5 hours of actual hearing or Rs. 85 if the case is disposed of on the first day.

9. *Procedure in appeals.*—(1) In appeals under section 29 (*1*) (*a*) of the Act the Court shall, as far as may be and with the necessary modifications, follow the practice and procedure prescribed for appeals from original decrees by the Code.

(2) If, in any such appeal, the judges constituting the bench differ, the Chief Judge, if he is one of the judges, or, in his absence, the judge first in rank and precedence shall have the casting voice.

(3) The costs in respect of employing a legal practitioner when allowed shall be on the following scale in respect of any legal practitioner entitled to appear :—

(*a*) In an appeal from an order in a miscellaneous application.	Not more than Rs. 30.
(*b*) In an appeal from a decree or order in a suit or proceeding.	According to the scale applicable for an original suit or proceeding.

Chapter V.

Procedure for suits, proceedings, appeals, etc., outside Greater Bombay.

10. *Procedure for suits the value of the subject-matter of which does not exceed Rs. 500 and for proceeding for execution of decrees and orders passed therein.*—In such of the following suits and proceedings as are cognizable on the date of the coming into force of these Rules by a court invested with the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, namely :—

(1) suits relating to recovery of rent or charges for boarding, lodging or other service provided in a hotel or lodging house or recovery of possession of any premises, when the amount or value of the subject-matter does not exceed Rs. 500, and

(2) proceedings for execution of any decree or order passed in any such suit or proceeding,

the court of Civil Judge (Junior Division or Senior Division) shall follow, as far as may be and with the necessary modifications, the procedure prescribed in the Code to be followed by the courts invested with the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887.

11. *Procedure in applications for fixing standard rents, etc.*—In miscellaneous applications the court of Civil Judge (Junior Division or Senior Division) shall follow, as far as may be and with the necessary modifications, the procedure applicable to suits referred to in rule 10 as if such applications were suits of the description referred to therein.

12. *Procedure for other suits and proceedings.*—In suits and proceedings other than those referred to in rules 10 and 11, the court of Civil Judge (Junior Division or Senior Division) shall follow, as far as may be and with the necessary modifications the procedure prescribed for a court of first instance by the Code.

13. *Procedure in appeals.*—In an appeal under section 29 (*1*) (*b*) of the Act from a decree or order made by the court of Civil Judge (Junior Division or Senior Division) the District Court shall, as far as may be and with the necessary modifications, follow the practice and procedure prescribed for appeals from original decrees by the Code.

CHAPTER VI.

Court Fees.

14. *Court fees to be levied in Greater Bombay.*—(1) The court fees leviable in suits and proceedings mentioned in rule 5 shall be the fees for the time being chargeable in the Court of Small Causes under the Presidency Small Cause Courts Act, 1882.

(2) The court fees leviable in miscellaneous applications mentioned in rule 7 shall be eight annas and the court fees leviable in appeals against orders passed in such applications shall be one rupee.

(3) The court fees leviable in suits and proceedings mentioned in rule 8 and in all appeals filed under section 29 (*1*) (*a*) of the Act in the Court of Small Causes, Bombay, shall be the court fees chargeable for the time being for such suits and appeals instituted in the courts other than the High Court and the Court of Small Causes, Bombay, under Chapter III of the Court-fees Act, 1870, and the provisions of that Act, as far as may be and with the necessary modifications, shall apply to the recovery of the said court fees.

(4) Whenever any suit or proceeding mentioned in rule 5 or 8 is settled by agreement of the parties before the hearing half the amount of the court fees paid in respect of the plaint or application by which the suit or proceeding was instituted shall be repaid by the Court of Small Causes, Bombay, to the parties by whom the same have been paid.

15. *Court fees in courts outside Greater Bombay.*—(1) The court fees leviable in miscellaneous applications in courts outside Greater Bombay shall be eight annas and in appeals against orders passed in such miscellaneous applications shall be one rupee.

(2) In suits, appeals and other proceedings in courts outside Greater Bombay the Court fees leviable shall be the same as are chargeable under Chapter III of the Court-fees Act, 1870, and the provisions of that Act shall apply to the recovery of such court fees.

(3) Whenever any suit or proceeding in any court outside Greater Bombay is settled by agreement of the parties before the hearing, half the amount of the court fees paid in respect of the plaint or application by which the suit or proceeding was instituted shall be repaid by the court to the parties by whom the same have been paid.

CHAPTER VII.

General.

16. *The provisions of the Code to be generally followed.*—In deciding any question relating to procedure not specifically provided for by these Rules the court shall, as far as possible, be guided by the provisions contained in the Code.

CHAPTER VIII.

Inquiries before the Controller.

17. *Commencement of inquiry by Controller.*—The Controller may start the inquiry under Part III of the Act for fixing the fair rate under section 33 or revision thereof under section 34, or for fixing the number of lodgers to be accommodated in each room or specified accommodation in any hotel or loding house under section 33 situate within his jurisdiction either *suo motu* or on an application made to him in writing signed by the person making it and delivered to the Controller either in person or sent to his office-address by registered post.

18. *Register of inquiries.*—Every such inquiry made by the Controller or inquiry in connection with the issue of a certificate under section 39 shall bear a separate number and each such inquiry shall be entered in a separate register which shall be maintained in Form 2.

19. *Procedure for applications to Controller.*—An application for the revision of fair rates when made by the manager of a hotel or owner of a lodging house or for a certificate against a lodger shall be in writing signed by the manager or proprietor of the hotel or lodging house and delivered to the Controller either in person or sent to his office address by registered post.

20. *Contents of application to Controller.*—The application for the revision of the fair rates shall state the material grounds on which the revision is sought and the application for a certificate shall state the name, description and postal address of the lodger against whom the certificate is sought as also the grounds for the same and a brief statement of the material facts in support thereof.

21. *Procedure for fixing fair rates or for revising them or for fixing the number of lodgers.*—(1) Before fixing the fair rates or revising them or fixing the number of lodgers the Controller shall receive and consider such oral and documentary evidence as the applicant, if any, and the manager of a hotel or owner of a lodging house may lead.

(2) The Controller shall, as far as practicable, make such inquiries as he deems necessary from other lodgers in the hotel or lodging house.

22. *Procedure for certificate against lodgers.*—Before making an order granting or refusing to issue a certificate against a lodger the Controller shall receive and consider such evidence as the lodger and the manager of a hotel or owner of a lodging house may lead.

23. *Manner of recording oral evidence.*—The Controller shall make a short memorandum of the substance of the oral evidence recorded by him.

24. *Forms and manner of service of summonses.*—A summons issued to a witness (*a*) for giving evidence shall be in Form 3 and (*b*) for production of documents shall be in Form 4. The summons shall be served by registered post.

25. *Contents of the order of Controller.*—The final order passed by the Controller in an inquiry under the Act shall state in brief the reasons in support of the order made. The order shall be signed by the Controller and shall bear the date on which it was passed.

26. *Copies of the order to be sent to parties.*—A copy of the order passed shall be sent by registered post to the parties concerned. A copy of the order fixing the fair rates or revision thereof or for fixing the number of lodgers shall also be sent to the police station within whose jurisdiction the hotel or lodging house to which the order relates is situate.

27. *Certificate to be sent to the Manager.*—The certificate issued under section 39 shall be sent to the manager of the hotel or owner of the lodging house concerned and a copy thereof to the lodger concerned by registered post. An office copy of the certificate shall be kept in the record of the inquiry.

FORM No. 1.

(*See* rule 3.)

Form of Rent Receipt and Counterfoil.

Counterfoil. Serial No.

Name of the landlord :—
Address of the landlord :—

Received with thanks from Mr./Mrs./Miss
a sum of Rs. (in figures) (in words)
only as payment of rent at Rs. per for
the period for the premises
this day the day of the month of in the year

Signature or thumb impression of the landlord.

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* The rent charged includes :—
(1) Rates, cesses and taxes of the local authority.
†(2) Electric charges.
†(3) Gas charges.
†(4) .....
†(5) .....
* It does not include :—
(1) Rates, cesses and taxes of the local authority.
(2) Electric charges.
(3) Gas charges.
(4) .....
(5) .....

* Strike out whatever is inapplicable.
† State the exact charges if possible.

Rent Receipt. Serial No.

Name of the landlord :—
Address of the landlord :—

Received with thanks from Mr./Mrs./Miss
a sum of Rs. (in figures) (in words)
only as payment of rent at Rs. per for
the period for the premises
this day the day of the month of in the year

Signature or thumb impression of the landlord.

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* The rent charged includes :—
(1) Rates, cesses and taxes of the local authority.
†(2) Electric charges.
†(3) Gas charges.
†(4) .....
†(5) .....
* It does not include :—
(1) Rates, cesses and taxes of the local authority.
(2) Electric charges.
(3) Gas charges.
(4) .....
(5) .....

* Strike out whatever is inapplicable.
† State the exact charges if possible.

FORM No. 2.

(*See* rule 18.)

Form of the Register to be maintained by the Controller.

Serial No.	Names of the Parties and Hotel or Lodging House.	Date of the receipt of the application.	Nature of the application.	Date of decision.	How it was decided.

FORM No. 3.

(*See* rule 24.)

IN THE OFFICE OF THE CONTROLLER FOR HOTELS AND LODGING HOUSES.

Summons to attend and give evidence.

Inquiry No. of 19

Applicant;

versus

Opponent.

To

YOU are hereby summoned to appear in this office in person on the day of 19 at o'clock and from day to day until your attendance is dispensed with by the

Controller, to give evidence in the above mentioned inquiry and to produce

and you are not to depart thence until you have been examined (or have produced the Document) or unless you have obtained the leave of the Controller.

Given this

day of 19

If you fail to attend without lawful excuse, you will be subject to the consequences of non-attendance laid down in rule 12 of Order XVI of the Code of Civil Procedure, 1908.

Controller.

FORM No. 4.

(*See* rule 24.)

IN THE OFFICE OF THE CONTROLLER FOR HOTELS AND LODGING HOUSES.

Summons to produce documents.

Inquiry No. of 19

Applicant :

versus

Opponent.

To

You are hereby required to produce at the above Inquiry on the day of 19 , at o'clock and from day to day until your attendance is dispensed with by the Controller ;—

Dated this day of 19

Controller.